SAN FRANCISCO
BAYKEEPER®

May 6, 2014

VIA CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Andre Weiglein
President
AER Worldwide
42744 Boscell Road
Fremont, CA 94538

Darrell Hogan
Director of Operations
AER Worldwide
42744 Boscell Road
Fremont, CA 94538

Andre Weiglein
Agent for Service of Process
AER Electronics, Inc.
42744 Boscell Road
Fremont, CA 94538

Re: Notice of Violation and Intent to File Suit under the Clean Water Act

Dear Sirs:

I am writing on behalf of San Francisco Baykeeper ("Baykeeper") to give notice that Baykeeper intends to file a civil action against AER Worldwide and AER Electronics, Inc. (collectively, "AER") for violations of the federal Clean Water Act, 33 U.S.C. § 1251 *et seq.* ("CWA") at AER's facility located at 42744 Boscell Road, Fremont, California 94538 (the "Facility").

Baykeeper is a non-profit public benefit corporation organized under the laws of California, with its office in San Francisco, California. Baykeeper's purpose is to preserve, protect, and defend the environment, wildlife, and natural resources of San Francisco Bay, its tributaries, and other waters in the Bay Area, for the benefit of local communities. Baykeeper has over two thousand members who use and enjoy San Francisco Bay and other waters for various recreational, educational, and spiritual purposes. Baykeeper's members' use and enjoyment of these waters are negatively affected by the pollution caused by AER's operations.

This letter addresses AER's unlawful discharge of pollutants from the Facility via stormwater into Mowry Slough and San Francisco Bay. Specifically, Baykeeper's investigation of the Facility has uncovered significant, ongoing and continuous violations of the CWA and the National Pollution Discharge Elimination System ("NPDES") General Permit No. CAS000001 [State Water Resources Control Board] Water Quality Order No. 92-12-DWQ, as amended by Order No. 97-03-DWQ ("Industrial Stormwater Permit").

CWA section 505(b) requires that sixty (60) days prior to the initiation of a civil action under CWA section 505(a), a citizen must give notice of his or her intent to file suit. 33 U.S.C. § 1365. Notice must be given to the alleged violator, the U.S. Environmental Protection Agency ("EPA"), and the State in which the violations occur. As required by section 505(b), this Notice of Violation and Intent to File Suit provides notice to AER of the violations that have occurred and which continue to occur at the Facility. After the expiration of sixty (60) days from the date of this Notice of Violation and Intent to File Suit, Baykeeper intends to file suit in federal court against AER under CWA section 505(a) for the violations described more fully below.

During the 60-day notice period, Baykeeper is willing to discuss effective remedies for the violations noticed in this letter. We suggest that AER contact us within the next twenty (20) days so that these discussions may be completed by the conclusion of the 60-day notice period. Please note that we do not intend to delay the filing of a complaint in federal court even if discussions are continuing when the notice period ends, and service of the complaint shortly thereafter.

I. THE LOCATION OF THE ALLEGED VIOLATIONS

A. The Facility.

AER's Facility is located at 42744 Boscell Road in Fremont, California. AER collects, processes, recycles, stores, and transports electronic wastes. Most of the processing of electronics occurs indoors, but some waste storage and vehicle operation occur outdoors. Potential pollutants that may come in contact with stormwater include the following: sediment (total suspended solids; "TSS"), pH, chemical oxygen demand ("COD"), aluminum, copper, iron, lead, zinc, batteries, waste oil, grease, diesel oil, diesel fuel, gasoline, hydraulic oil, lubricants, antifreeze, brake fluid, transmission fluid, polycyclic aromatic hydrocarbons ("PAHs"), other trace metals (from sources including electronics), and other pollutants. The Facility has three stormwater discharge points, and stormwater discharges through storm drains to Mowry Slough, which flows to San Francisco Bay.

B. The Affected Waters.

Mowry Slough and San Francisco Bay are waters of the United States. The CWA requires that water bodies such as San Francisco Bay meet water quality objectives that protect specific "beneficial uses." The beneficial uses of San Francisco Bay and its tributaries include commercial and sport fishing, estuarine habitat, fish migration, navigation, preservation of rare and endangered species, water contact and non-contact recreation, shellfish harvesting, fish spawning, and wildlife habitat. Contaminated stormwater from the Facility adversely affects the water quality of the San Francisco Bay watershed and threatens the ecosystem of this watershed, which includes significant habitat for listed rare and endangered species.

II. THE ACTIVITIES AT THE FACILITY CONSTITUTE VIOLATIONS OF THE CLEAN WATER ACT

It is unlawful to discharge pollutants to waters of the United States, such as San Francisco Bay, without an NPDES permit or in violation of the terms and conditions of an NPDES permit. CWA § 301(a), 33 U.S.C. § 1311(a); *see also* CWA § 402(p), 33 U.S.C. § 1342(p) (requiring NPDES permit issuance for the discharge of stormwater associated with industrial activities). The Industrial Stormwater Permit authorizes certain discharges of stormwater, conditioned on compliance with its terms.

In 2005, AER submitted a Notice of Intent ("NOI") to be authorized to discharge stormwater from the Facility under the Industrial Stormwater Permit. However, information available to Baykeeper indicates that stormwater discharges from the Facility have violated several terms of the Industrial Stormwater Permit, thereby violating the CWA. *Id.* Apart from discharges that comply with the Industrial Stormwater Permit, the Facility lacks NPDES permit authorization for any other discharges of pollutants into waters of the United States.

A. Discharges in Excess of BAT/BCT Levels.

The Effluent Limitations of the Industrial Stormwater Permit prohibit the discharge of pollutants from the Facility in concentrations above the level commensurate with the application of best available technology economically achievable ("BAT") for toxic pollutants[1] and best conventional pollutant control technology ("BCT") for conventional pollutants.[2] Industrial Stormwater Permit, Order Part B(3). The EPA has published Benchmark values set at the maximum pollutant concentration present if an industrial facility is employing BAT and BCT, as described in Attachment 1 to this letter.[3]

AER's self-reported exceedances of Benchmark values over the last five years, identified in Attachment 2 to this letter, indicate that AER has failed and is failing to employ measures that constitute BAT and BCT in violation of the requirements of the Industrial Stormwater Permit. Baykeeper alleges and notifies AER that its stormwater discharges from the Facility have consistently contained and continue to contain levels of pollutants which exceed Benchmark values for TSS, COD, aluminum, copper, iron, lead, and zinc.

Further, based on information available to Baykeeper, AER's self-reported data understates the extent of pollution coming from the Facility for two reasons. First, during the 2011-12 and 2012-13 wet seasons, AER only collected stormwater samples during

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[1] BAT is defined at 40 C.F.R. § 442.23. Toxic pollutants are listed at 40 C.F.R. § 401.15 and include copper, lead, and zinc, among others.
[2] BCT is defined at 40 C.F.R. § 442.22. Conventional pollutants are listed at 40 C.F.R. § 401.16 and include BOD, TSS, oil and grease, pH, and fecal coliform.
[3] The Benchmark values can be found at: http://www.epa.gov/npdes/pubs/msgp2008_finalpermit.pdf and http://cwea.org/p3s/documents/multi-sectorrev.pdf (Last accessed on 4/22/14).

one rain event, even though the Industrial Stormwater Permit requires sampling from two events per wet season. Second, AER failed to measure some of the required parameters in its stormwater samples. For example, AER failed to measure the pollutant zinc in its 2012-13 samples and COD in its 2009-10, 2010-11, and 2011-12 samples. Thus, for both reasons, AER's data underestimates the extent of pollution coming from the Facility.

AER's ongoing discharges of stormwater containing levels of pollutants above EPA Benchmark values and BAT- and BCT-based levels of control also demonstrate that AER has not developed and implemented sufficient Best Management Practices ("BMPs") at the Facility. Proper BMPs could include, but are not limited to, moving certain pollution-generating activities under cover or indoors, capturing and effectively filtering or otherwise treating all stormwater prior to discharge, frequent sweeping to reduce the build-up of pollutants on-site, installing filters in downspouts and storm drains, and other similar measures.

AER's failure to develop and/or implement adequate pollution controls to meet BAT and BCT at the Facility violates and will continue to violate the Clean Water Act and the Industrial Stormwater Permit each and every day AER discharges stormwater without meeting BAT/BCT. Baykeeper alleges that AER has discharged stormwater containing excessive levels of pollutants from the Facility to Mowry Slough and San Francisco Bay during at least every significant local rain event over 0.1 inches in the last five years.[4] Attachment 3 compiles all dates in the last five (5) years when a significant rain event occurred. AER is subject to civil penalties for each violation of the Industrial Stormwater Permit and the CWA within the past five (5) years.

B. Discharges Impairing Receiving Waters.

The Industrial Stormwater Permit's Discharge Prohibitions disallow stormwater discharges that cause or threaten to cause pollution, contamination, or nuisance. *See* Industrial Stormwater Permit, Order Part A(2). The Industrial Stormwater Permit also prohibits stormwater discharges to surface or groundwater that adversely impact human health or the environment. *Id.* at Order Part C(1). Receiving Water Limitations of the Industrial Stormwater Permit prohibit stormwater discharges that cause or contribute to an exceedance of applicable Water Quality Standards ("WQS"). *Id.* at Order Part C(2). Applicable WQSs are set forth in the California Toxics Rule ("CTR")[5] and Chapter 3 of the San Francisco Bay Basin (Region 2) Water Quality Control Plan ("Basin Plan").[6]

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[4] Significant local rain events are reflected in the rain gauge data available http://cdec.water.ca.gov, http://lwf.ncdc.noaa.gov/oa/ncdc.html, and http://www.ncdc.noaa.gov/IPS/hpd/hpd.html (Last accessed on 4/22/14).

[5] The CTR is set forth at 40 C.F.R. § 131.38 and is explained in the Federal Register preamble accompanying the CTR promulgation set forth at 65 Fed. Reg. 31,682 (May 18, 2000).

[6] The Basin Plan is published by EPA at: http://water.epa.gov/scitech/swguidance/standards/wqslibrary/upload/2009_03_16_standards_wqslibrary_ca_ca_9_san_francisco.pdf (Last accessed on 4/22/14).
The Basin Plan is also published by the San Francisco Bay Regional Water Quality Control Board at: http://www.waterboards.ca.gov/sanfranciscobay/basin_planning.shtml#2004basinplan (Last accessed on 4/22/14).

Exceedances of WQSs are violations of the Industrial Stormwater Permit, the CTR, and the Basin Plan.

The Basin Plan establishes Water Quality Standards for San Francisco Bay and its tributaries, including but not limited to the following:

- Waters shall not contain substances in concentrations that result in the deposition of material that cause nuisance or adversely affect beneficial uses.

- Waters shall not contain suspended material in concentrations that cause nuisance or adversely affect beneficial uses.

- Waters shall be free of changes in turbidity that cause nuisance or adversely affect beneficial uses. Increases from normal background light penetration or turbidity relatable to waste discharge shall not be greater than 10 percent in areas where natural turbidity is greater than 50 NTU.

- All waters shall be maintained free of toxic substances in concentrations that are lethal to or that produce other detrimental responses in aquatic organisms.

- Surface waters shall not contain concentrations of chemical constituents in amounts that adversely affect any designated beneficial use. The Basin Plan, Table 3-3, identifies specific marine water quality objectives for toxic pollutants,[7] and Table 3-4 identifies specific fresh water quality objectives for toxic pollutants.[8] *See* Attachment 4.

Baykeeper alleges that AER's stormwater discharges have caused or contributed to exceedances of the WQS set forth in the Basin Plan and California Toxics Rule. These allegations are based on information available to Baykeeper, including AER's self-reported data submitted to the San Francisco Bay Regional Water Quality Control Board indicating exceedances of receiving water limits for copper, lead, and zinc. *See* Attachment 2. As explained above, based on information available to Baykeeper, these sample results do not fully reflect the extent of pollution coming from the Facility.

Baykeeper alleges that each day that AER has discharged stormwater from the Facility, AER's stormwater has contained levels of pollutants that exceeded one or more of the applicable WQS in San Francisco Bay. Baykeeper alleges that AER has discharged stormwater exceeding WQS from the Facility to Mowry Slough and San Francisco Bay during at least every significant local rain event over 0.1 inches in the last

[7] Basin Plan, Table 3-3 is available at: http://www.waterboards.ca.gov/rwqcb2/water_issues/programs/planningtmdls/basinplan/web/tab/tab_3-03.pdf (Last accessed on 4/22/14).
[8] Basin Plan, Table 3-4 is available at: http://www.waterboards.ca.gov/rwqcb2/water_issues/programs/planningtmdls/basinplan/web/tab/tab_3-04.pdf (Last accessed on 4/22/14).

five years. *See* Attachment 3. Each discharge from the Facility that has caused or contributed, or causes or contributes, to an exceedance of an applicable WQS constitutes a separate violation of the Industrial Stormwater Permit and the CWA. AER is subject to penalties for each violation of the Industrial Stormwater Permit and the CWA within the past five (5) years.

C. Failure to Develop and/or Implement an Adequate Storm Water Pollution Prevention Plan.

The Industrial Stormwater Permit requires dischargers to develop and implement an adequate Storm Water Pollution Prevention Plan ("SWPPP"). Industrial Stormwater Permit, Section A(1)(a). The Industrial Stormwater Permit also requires dischargers to make all necessary revisions to existing SWPPPs promptly. *Id.* at Order Part E(2).

The SWPPP must include, among other requirements, the following: a site map, a list of significant materials handled and stored at the site, a description and assessment of all potential pollutant sources, a description of the BMPs that will reduce or prevent pollutants in stormwater discharges, specification of BMPs designed to reduce pollutant discharge to BAT and BCT levels, a comprehensive site compliance evaluation completed each reporting year, and revisions to the SWPPP within 90 days after a facility manager determines that the SWPPP is in violation of any requirements of the Industrial Stormwater Permit. *See* Industrial Stormwater Permit, Section A.

Based on information available to Baykeeper, AER has failed to prepare and/or implement an adequate SWPPP and/or to revise the SWPPP to satisfy each of the requirements of Section A of the Industrial Stormwater Permit. For example, AER's SWPPP does not include, and AER has not implemented, adequate BMPs designed to reduce pollutant levels in discharges to BAT and BCT levels in accordance with Section A(8) of the Industrial Stormwater Permit, as evidenced by the data in Attachment 2 and by Baykeeper's stormwater samples collected at the Facility.

Accordingly, AER has violated the CWA each and every day that it has failed to develop and/or implement an adequate SWPPP meeting all of the requirements of Section A of the Industrial Stormwater Permit, and AER will continue to be in violation every day until they develop and/or implement an adequate SWPPP. AER is subject to penalties for each violation of the Industrial Stormwater Permit and the CWA occurring within the past five (5) years.

D. Failure to Develop and Implement an Adequate Monitoring and Reporting Program and to Perform Annual Comprehensive Site Compliance Evaluations.

The Industrial Stormwater Permit requires facility operators to develop and implement a Monitoring and Reporting Program ("MRP"). Industrial Stormwater Permit, Section B(1) and Order Part E(3). The Industrial Stormwater Permit requires that the MRP ensure that each facility's stormwater discharges comply with the Discharge

Prohibitions, Effluent Limitations, and Receiving Water Limitations specified in the Industrial Stormwater Permit. *Id.* at Section B(2). Facility operators must ensure that their MRP practices reduce or prevent pollutants in stormwater and authorized non-stormwater discharges as well as evaluate and revise their practices to meet changing conditions at the facility. *Id.* This may include revising the SWPPP as required by Section A of the Industrial Stormwater Permit. The MRP must measure the effectiveness of BMPs used to prevent or reduce pollutants in stormwater and authorized non-stormwater discharges, and facility operators must revise the MRP whenever appropriate. *Id.* Facility operators are also required to provide an explanation of monitoring methods describing how the facility's monitoring program will satisfy these objectives. *Id.* at Section B(10).

AER has been operating the Facility with an inadequately developed and/or inadequately implemented MRP, in violation of the substantive and procedural requirements set forth in Section B of the Industrial Stormwater Permit. For example, AER has only collected stormwater samples during one rain event during the previous two wet seasons, even though two rain events are required to be sampled. Also, the data in Attachment 2 indicates that AER's monitoring program has not ensured that stormwater discharges are in compliance with the Discharge Prohibitions, Effluent Limitations, and Receiving Water Limitations of the Industrial Stormwater Permit as required by Section B(2). The monitoring program has not resulted in practices at the Facility that adequately reduce or prevent pollutants in stormwater as required by Section B(2). Similarly, the data in Attachment 2 indicate that AER's MRP has not effectively identified or responded to compliance problems at the Facility or resulted in effective revision of BMPs in use or the Facility's SWPPP to address such ongoing problems as required by Section B(2).

In addition, AER's MRP is inadequate because AER has been collecting stormwater samples that do not adequately reflect pollution coming from its industrial activities. Section B(7)(a) of the Industrial Stormwater Permit requires AER to collect stormwater samples that "represent the quality and quantity of the facility's storm water discharges." AER has not consistently measured all samples for COD and zinc, as required. Thus, stormwater samples collected do not adequately represent the quality of stormwater flowing from the industrial areas of the site.

As a result of AER's failure to adequately develop and/or implement an adequate MRP at the Facility, AER has been in daily and continuous violation of the Industrial Stormwater Permit and the CWA each and every day for the past five years. These violations are ongoing. AER will continue to be in violation of the monitoring and reporting requirements each day that AER fails to adequately develop and/or implement an effective MRP at the Facility. AER is subject to penalties for each violation of the Industrial Stormwater Permit and the CWA occurring for the last five (5) years.

E. Discharges Without Permit Coverage.

Section 301(a) of the Clean Water Act prohibits the discharge of any pollutant into waters of the United States unless the discharge is authorized by a NPDES permit issued pursuant to section 402 of the Clean Water Act. *See* 33 U.S.C. §§ 1311(a), 1342. AER sought coverage for the Facility under the Industrial Stormwater Permit, which states that any discharge from an industrial facility not in compliance with the Industrial Stormwater Permit "must be either eliminated or permitted by a separate NPDES permit." Industrial Stormwater Permit, Order Part A(1). Because AER has not obtained coverage under any separate NPDES permit, and has failed to eliminate discharges not permitted by the Industrial Stormwater Permit, each and every discharge from the Facility described herein not in compliance with the Industrial Stormwater Permit has constituted and will continue to constitute a discharge without CWA permit coverage in violation of section 301(a) of the Clean Water Act, 33 U.S.C. § 1311(a).

IV. PERSONS RESPONSIBLE FOR THE VIOLATIONS

AER Worldwide and AER Electronics, Inc. are the persons responsible for the violations at the Facility described above.

V. NAME AND ADDRESS OF NOTICING PARTY

Our name, address, and telephone number is as follows:

San Francisco Baykeeper
785 Market Street, Suite 850
San Francisco, CA 94103
(415) 856-0444

VI. COUNSEL

Baykeeper is represented by the following counsel in this matter, to whom all communications should be directed:

George Torgun, Managing Attorney
Andrea Kopecky, Staff Attorney
San Francisco Baykeeper
785 Market Street, Suite 850
San Francisco, CA 94103
(415) 856-0444

George Torgun: (415) 856-0444 x105, george@baykeeper.org
Andrea Kopecky: (415) 856-0444 x110, andrea@baykeeper.org

VII. REMEDIES

Baykeeper intends, at the close of the 60-day notice period or thereafter, to file a citizen suit under CWA section 505(a) against AER for the above-referenced violations. Baykeeper will seek declaratory and injunctive relief to prevent further CWA violations pursuant to CWA sections 505(a) and (d), 33 U.S.C. § 1365(a) and (d), and such other relief as permitted by law. In addition, Baykeeper will seek civil penalties pursuant to CWA section 309(d), 33 U.S.C. § 1319(d), and 40 C.F.R. § 19.4, against AER in this action. The CWA imposes civil penalty liability of up to $37,500 per day per violation for violations occurring after January 12, 2009. 33 U.S.C. § 1319(d); 40 C.F.R. § 19.4. Baykeeper will seek to recover attorneys' fees, experts' fees, and costs in accordance with CWA section 505(d), 33 U.S.C. § 1365(d).

As noted above, Baykeeper is willing during the 60-day notice period to discuss effective remedies for the violations noted in this letter. Please contact Andrea or George to initiate these discussions.

Sincerely,

Andrea L. Kopecky

Andrea L. Kopecky
Staff Attorney
San Francisco Baykeeper

Cc:

Gina McCarthy Administrator US EPA, William Jefferson Clinton Bldg. 1200 Pennsylvania Avenue, N.W. Mail Code: 1101A Washington, DC 20460	Eric H. Holder, Jr. Attorney General U.S. Department of Justice 950 Pennsylvania Avenue, N.W. Washington, DC 20530
Jared Blumenfeld Regional Administrator U.S. EPA - Region 9 75 Hawthorne Street San Francisco, CA 94105	Thomas Howard Executive Director State Water Resources Control Board 1001 I Street Sacramento, CA 95814
Bruce Wolfe Executive Officer Regional Water Quality Control Board San Francisco Bay Region 1515 Clay Street, Suite 1400 Oakland, CA 94612	

Attachment 1: EPA Benchmarks

Parameter	Units	Benchmark value
Biochemical Oxygen Demand	mg/L	30
Chemical Oxygen Demand (COD)	mg/L	120
Total Suspended Solids (TSS)	mg/L	100
Oil and Grease	mg/L	15
Nitrate + Nitrite Nitrogen	mg/L	0.68
Total Phosphorus	mg/L	2
pH	SU - low	6
pH	SU - high	9
Acrylonitrile	mg/L	7.55
Aluminum Total	mg/L	0.75
Ammonia Total (as N)	mg/L	19
Antimony, Total	mg/L	0.64
Arsenic Total	mg/L	0.15
Benzene	mg/L	0.01
Beryllium, Total	mg/L	0.13
Butylbenzyl Phthalate	mg/L	3
Chloride	mg/L	860
Copper Total	mg/L	0.0636
Dimethyl Phthalate	mg/L	1
Ethylbenzene	mg/L	3.1
Fluoranthene	mg/L	0.042
Fluoride	mg/L	1.8
Iron Total	mg/L	1
Lead Total	mg/L	0.0816
Manganese	mg/L	1
Mercury Total	mg/L	0.0024
Nickel Total	mg/L	1.417
PCB-1016	mg/L	0.000127
PCB-1221	mg/L	0.1
PCB-1232	mg/L	0.000318
PCB-1242	mg/L	0.0002
PCB-1248	mg/L	0.002544
PCB-1254	mg/L	0.1
PCB-1260	mg/L	0.000477
Phenols, Total	mg/L	1
Pyrene	mg/L	0.01
Selenium Total	mg/L	0.2385
Silver Total	mg/L	0.0318
Toluene	mg/L	10
Trichloroethylene	mg/L	0.0027
Zinc Total	mg/L	0.117
Cyanide Total (as CN)	mg/L	0.0636
Magnesium Total	mg/L	0.064

Attachment 2: Table of Violations for AER Worldwide

Table containing each stormwater sample result provided by AER Worldwide in which samples exceed Water Quality Standards (WQS), EPA Benchmarks, or both. The EPA Benchmarks and Water Quality Standards are listed at the end of the table. All stormwater samples were collected during the past five years.

No.	Sampling Location	Sampling Date	Parameter		Value	Units	Wet Season	Exceeds Bench-mark	Exceeds WQS
1	#1	10/22/2012	Total Suspended Solids	=	490	mg/L	2012-2013	√	
2	#2	10/22/2012	Total Suspended Solids	=	210	mg/L	2012-2013	√	
3	#3	10/22/2012	Total Suspended Solids	=	300	mg/L	2012-2013	√	
4	#1	10/22/2012	Aluminum Total	=	4.5	mg/L	2012-2013	√	
5	#2	10/22/2012	Aluminum Total	=	4.5	mg/L	2012-2013	√	
6	#3	10/22/2012	Aluminum Total	=	2.7	mg/L	2012-2013	√	
7	#1	10/22/2012	Copper Total	=	0.14	mg/L	2012-2013	√	√
8	#2	10/22/2012	Copper Total	=	0.24	mg/L	2012-2013	√	√
9	#3	10/22/2012	Copper Total	=	0.13	mg/L	2012-2013	√	√
10	#1	10/22/2012	Iron Total	=	7.9	mg/L	2012-2013	√	
11	#2	10/22/2012	Iron Total	=	8.6	mg/L	2012-2013	√	
12	#3	10/22/2012	Iron Total	=	4.6	mg/L	2012-2013	√	
13	#1	10/22/2012	Lead Total	=	0.069	mg/L	2012-2013		√
14	#2	10/22/2012	Lead Total	=	0.13	mg/L	2012-2013	√	√
15	#1	10/22/2012	Chemical Oxygen Demand	=	260	mg/L	2012-2013	√	
16	#2	10/22/2012	Chemical Oxygen Demand	=	140	mg/L	2012-2013	√	
17	#2	4/10/2012	Total Suspended Solids	=	200	mg/L	2011-2012	√	
18	#3	4/10/2012	Total Suspended Solids	=	280	mg/L	2011-2012	√	
19	#2	4/10/2012	Aluminum Total	=	4.8	mg/L	2011-2012	√	
20	#3	4/10/2012	Aluminum Total	=	3.5	mg/L	2011-2012	√	
21	#1	4/10/2012	Copper Total	=	0.019	mg/L	2011-2012	√	√
22	#2	4/10/2012	Copper Total	=	0.17	mg/L	2011-2012	√	√
23	#3	4/10/2012	Copper Total	=	0.075	mg/L	2011-2012	√	√
24	#2	4/10/2012	Iron Total	=	9.3	mg/L	2011-2012	√	
25	#3	4/10/2012	Iron Total	=	5.8	mg/L	2011-2012	√	
26	#2	4/10/2012	Lead Total	=	0.12	mg/L	2011-2012	√	√
27	#1	4/10/2012	Zinc Total	=	0.20	mg/L	2011-2012	√	√
28	#2	4/10/2012	Zinc Total	=	1.7	mg/L	2011-2012	√	√
29	#3	4/10/2012	Zinc Total	=	1.3	mg/L	2011-2012	√	√
30	#2	5/31/2011	Aluminum Total	=	1.1	mg/L	2010-2011	√	
31	#1	5/31/2011	Copper Total	=	0.05	mg/L	2010-2011	√	√
32	#2	5/31/2011	Copper Total	=	0.22	mg/L	2010-2011	√	√
33	#3	5/31/2011	Copper Total	=	0.076	mg/L	2010-2011	√	√
34	#2	5/31/2011	Iron Total	=	2.2	mg/L	2010-2011	√	
35	#1	5/31/2011	Zinc Total	=	0.23	mg/L	2010-2011	√	√

36	#2	5/31/2011	Zinc Total	=	0.80	mg/L	2010-2011	√	√
37	#3	5/31/2011	Zinc Total	=	0.23	mg/L	2010-2011	√	√
38	#1	1/01/2011	Copper Total	=	0.030	mg/L	2010-2011	√	√
39	#2	1/01/2011	Copper Total	=	0.070	mg/L	2010-2011	√	√
40	#3	1/01/2011	Copper Total	=	0.022	mg/L	2010-2011	√	√
41	#2	1/01/2011	Iron Total	=	1.2	mg/L	2010-2011	√	
42	#1	1/01/2011	Zinc Total	=	0.13	mg/L	2010-2011	√	√
43	#2	1/01/2011	Zinc Total	=	0.72	mg/L	2010-2011	√	√
44	#1	2/23/2010	Total Suspended Solids	=	220	mg/L	2009-2010	√	
45	#2	2/23/2010	Total Suspended Solids	=	300	mg/L	2009-2010	√	
46	#3	2/23/2010	Total Suspended Solids	=	330	mg/L	2009-2010	√	
47	#1	2/23/2010	Copper Total	=	0.037	mg/L	2009-2010	√	√
48	#2	2/23/2010	Copper Total	=	0.031	mg/L	2009-2010	√	√
49	#1	2/23/2010	Zinc Total	=	0.78	mg/L	2009-2010	√	√
50	#2	2/23/2010	Zinc Total	=	0.59	mg/L	2009-2010	√	√
51	#3	2/23/2010	Zinc Total	=	0.33	mg/L	2009-2010	√	√
52	#1	11/20/2009	Total Suspended Solids	=	180	mg/L	2009-2010	√	
53	#2	11/20/2009	Total Suspended Solids	=	340	mg/L	2009-2010	√	
54	#3	11/20/2009	Total Suspended Solids	=	130	mg/L	2009-2010	√	
55	#1	11/20/2009	Copper Total	=	0.073	mg/L	2009-2010	√	√
56	#2	11/20/2009	Copper Total	=	0.157	mg/L	2009-2010	√	√
57	#3	11/20/2009	Copper Total	=	0.051	mg/L	2009-2010	√	√
58	#1	11/20/2009	Zinc Total	=	0.389	mg/L	2009-2010	√	√
59	#2	11/20/2009	Zinc Total	=	0.643	mg/L	2009-2010	√	√
60	#3	11/20/2009	Zinc Total	=	0.253	mg/L	2009-2010	√	√

2008 EPA benchmarks (Multi Sector General Permit; MSGP)

Parameter	Units	Benchmark value	Source
Chemical Oxygen Demand	mg/L	120	MSGP
Total Suspended Solids	mg/L	100	MSGP
Oil and grease	mg/L	15	MSGP
Aluminum Total	mg/L	0.75	MSGP
Copper Total	mg/L	0.014	MSGP*
Iron Total	mg/L	1.0	MSGP
Lead Total	mg/L	0.082	MSGP*
Zinc Total	mg/L	0.12	MSGP*
pH	SU	6.0-9.0	MSGP

*Hardness dependent; assuming hardness of 100 mg/L CaCO3.

Criteria - Basin Plan (BP), Fresh Water Quality Objectives

Parameter	Units	Water Quality Standard	Source
pH	SU	6.5 – 8.5	BP
Copper Total	mg/L	0.013	BP
Lead Total	mg/L	0.065	BP
Zinc Total	mg/L	0.12	BP

Attachment 3: Alleged Dates of Violations by AER Worldwide, May 2009 to March 2014

Days with precipitation one-tenth of an inch or greater, as reported by NOAA's National Climatic Data Center; Fremont station. http://www7.ncdc.noaa.gov/IPS/coop/coop.html

2009	2010	2011	2012	2013	2014
5/1	1/12	1/2	1/20	1/6	2/2
5/5	1/13	1/30	1/21	1/25	2/6
9/14	1/19	2/17	1/23	2/19	2/8
10/13	1/20	2/18	2/7	3/7	2/10
10/14	1/21	2/19	2/13	9/21	2/26
10/19	1/22	2/20	2/29	11/20	2/27
10/20	1/23	2/25	3/1	12/7	2/28
11/20	1/26	3/6	3/13		3/6
11/28	1/30	3/14	3/14		3/26
12/7	2/5	3/18	3/17		3/29
12/11	2/6	3/19	3/24		3/30
12/12	2/9	3/20	3/25		3/31
12/13	2/21	3/21	3/28		
12/21	2/23	3/24	3/31		
12/27	2/24	3/25	4/1		
	2/26	3/26	4/10		
	2/27	5/15	4/11		
	3/3	5/17	4/12		
	3/4	6/4	4/13		
	3/10	6/28	4/26		
	3/12	6/29	6/4		
	3/25	10/4	10/22		
	3/31	10/5	11/1		
	4/1	10/6	11/9		
	4/5	11/4	11/17		
	4/11	11/6	11/18		
	4/12	11/20	11/21		
	4/20		11/28		
	4/21		12/2		
	5/18		12/5		
	5/25		12/12		
	5/27		12/15		
	10/24		12/17		
	10/30		12/21		
	11/7		12/22		
	11/20		12/23		
	11/21		12/26		
	11/23		12/29		
	11/27				
	12/5				
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	12/14				
	12/15				

	12/18				
	12/19				
	12/22				
	12/25				
	12/26				
	12/29				

Attachment 4: Water Quality Standards

Parameter	Units	Water quality standard	Source
pH	SU	6.5-8.5	Basin Plan
Arsenic Total	mg/L	0.069	Basin Plan
Cadium, Total	mg/L	0.042	Basin Plan
Chromium VI	mg/L	1.1	Basin Plan
Copper Total	mg/L	0.013	Basin Plan
Lead Total	mg/L	0.065	Basin Plan
Mercury Total	mg/L	0.0021	Basin Plan
Selenium Total	mg/L	0.29	California Toxics Rule
Silver Total	mg/L	0.0019	Basin Plan
Zinc Total	mg/L	0.12	Basin Plan
Nickel Total	mg/L	0.074	Basin Plan, Site Specific Objectives